

IN THE
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

Christopher Prosser, individually and)	
on behalf of all others similarly situated,)	
)	
Plaintiffs.)	
)	
Vs.)	No. 4:23-cv-00124
)	
USHealth Advisors, LLC, et al.,)	
)	
)	
Defendants.)	

**MOTION FOR LEAVE TO AMEND THE SECOND AMENDED COMPLAINT
BY INTERLINEATION**

Comes Now the Plaintiff, by and through the undersigned counsel, and respectfully requests leave to amend the second amended complaint by interlineation, herein as follows:

1. The Plaintiff recently filed his second amended complaint which dramatically reduced the original and first amended complaints by approximately 22 pages.
2. In so doing, a harmless scrivener's error was committed in paragraph 14 of the second amended complaint and omitted the words "on the Missouri No Call List."

The current version of paragraph 14 reads:

"This number has been on the National Do Not Call Registry since 2008 and was reregistered by personally by the Plaintiff in February and May 2022."

Second Amended Complaint at ¶14.

The new amended version of paragraph ¶14 would contain only minor changes and will state:

“This number has been on the National Do Not Call Registry since 2008 and was reregistered personally by the Plaintiff on the Missouri No Call list and National registries in February and May 2022.”

3. The Defendants are not prejudiced by this alteration for several reasons, in that (1) they were provided with a copy of the Plaintiff’s Missouri No Call registration prior to filing this complaint and had notice of its existence; (2) the Missouri no call registration fact was contained in the original complaint at footnote 1, pp. 12, footnote 2, pp. 14; and First Amended Complaint at ¶¶3, 8 – 16, 36, footnote 1, pp. 12, footnote 2, pp. 13, etc; and (3) the Second Amended Complaint also already contains myriad representations that Plaintiff registered his phone on the Missouri no call list. See ¶¶8, 9, 18, 23, Pp. 5, fn.1, Pp. 7, fn. 2, pp. 26.¹

4. Amending the Second Amended Complaint by interlineation is the most effective way to save time and judicial resources and promote the parties’ interests in moving this case forward efficiently.

WHEREFORE, Plaintiff prays for leave to amend the Second Amended Complaint by interlineation, with the modest additions to paragraph 14 detailed above, and for such further relief deemed just in the circumstances.

¹ Missouri’s No Call law creates standing for those who merely live in a residence where a residential subscriber has lodged his objections to receiving telemarketing calls. No person or entity shall make or cause to be made any telephone solicitation to the telephone line of any residential subscriber in this state who has given notice to the attorney general, in accordance with rules promulgated pursuant to section 407.1101 of the subscriber’s objection to receiving telephone solicitations. A “residential subscriber” is defined as, “a person who has subscribed to residential telephone service from a local exchange company or *the other persons living or residing with such person.*” Mo. Rev. Stat. § 407.1095(2).

Respectfully submitted,

/s/Edwin V. Butler, Esquire
Edwin V. Butler Mo. 32489
Attorney At Law
Butler Law Group, LLC
1650 Des Peres Rd., Suite 220
St. Louis, MO 63131
edbutler@butlerlawstl.com
(314) 504-0001

Attorney for the Plaintiff

Certificate of Service

I hereby certify that the above and foregoing motion for leave to Amend the Second Amended Complaint by interlineation was served electronically this 11th day of July 2023, on all Attorneys of record via ECF/CM filing and notification system. This document was also scanned for viruses using Windows Defender 2022 and is free of viruses and malware.

/s/Edwin V. Butler
Edwin V. Butler